

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROGER PLANK, No C-08-3310 TEH (PR)  
Petitioner,  
v. ORDER TO SHOW CAUSE  
BEN CURRY, WARDEN,  
Respondent.

Petitioner, a state prisoner incarcerated at the  
Correctional Training Facility in Soledad, California, has filed a  
pro se Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254  
challenging the California Board of Parole Hearings' ("B.P.H.")  
refusal to grant him parole at his fifth parole hearing held on  
August 9, 2006.

I

On January 6, 1988, Petitioner pled guilty in San  
Bernardino County Superior Court to second degree murder and was  
sentenced to an indeterminate term of 16 years to life in state

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protections).

III

For the foregoing reasons and for good cause shown,

1. The Clerk shall serve a copy of this Order and the Petition and all attachments thereto on Respondent and Respondent's attorney, the Attorney General of the State of California. The Clerk also shall serve a copy of this Order on Petitioner.

2. Respondent shall file with the Court and serve on Petitioner, within 60 days of the issuance of this order, an Answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a Writ of Habeas Corpus should not be granted. Respondent shall file with the Answer and serve on Petitioner a copy of all portions of the state trial record that have been transcribed previously and that are relevant to a determination of the issues presented by the Petition.


If Petitioner wishes to respond to the Answer, he shall do so by filing a Traverse with the Court and serving it on Respondent within 30 days of his receipt of the Answer.

3. Respondent may file a Motion to Dismiss on procedural grounds in lieu of an Answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If Respondent files such a motion, Petitioner shall file with the Court and serve on Respondent an Opposition or Statement of Non-Opposition within 30 days of receipt of the motion, and Respondent shall file with the Court and serve on Petitioner a Reply within 15 days of receipt of any Opposition.

1           4.    Petitioner is reminded that all communications with  
2 the Court must be served on Respondent by mailing a true copy of the  
3 document to Respondent's counsel. Petitioner also must keep the  
4 Court and all parties informed of any change of address.

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7           IT IS SO ORDERED.

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9   DATED       03/30/09

  
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THELTON E. HENDERSON  
United States District Judge

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